

## **REMARKS/ARGUMENTS**

Reconsideration of this application is requested. Claims 48-55 are in the case.

### **I. ELECTION**

The election of Group I, claims 48-55, is hereby affirmed. Claims 56-63 have been canceled without prejudice to pursuing the subject matter of those claims in a separate divisional application.

### **II. REFERENCE TO CONTINUING APPLICATIONS**

The specification has been amended to update the cross-reference to related earlier applications. No new matter is entered.

### **III. CLAIM OBJECTIONS**

The structures set forth in the claims have been objected to as unclear. In response, the claims in the application now presented herewith with clarified structures. Withdrawal of the objections to the claims is now respectfully requested.

### **IV. DOUBLE PATENTING**

Claims 48-55 stand rejected on obviousness-type double patenting grounds as allegedly unpatentable over claim 7 of U.S. Patent 6,020,320. That rejection is respectfully traversed.

Pending claims 48-55 are directed to a method for enhancing the delivery of exogenous deoxyribonucleosides to the tissue of an animal comprising administering

certain recited acyl derivatives of deoxyribonucleosides. Claim 29 of the parent application was directed to a method for enhancing the delivery of exogenous deoxyribonucleosides to the tissue of an animal comprising administering certain acyl derivatives of deoxyribonucleosides as recited in claims 2, 4, 6, 8 or 10 of that application. Accordingly, pending claims 48-55 correspond to claim 29 of the parent application.

Claim 7 of the '320 patent is directed to a method for enhancing the healing of diseased or damaged liver tissue comprising administering certain recited acyl derivatives of deoxyribonucleosides. Claim 41 of the parent application was directed to a method for enhancing the healing of damaged liver tissue comprising administering a composition comprising certain acyl derivatives of deoxyribonucleosides as recited in claims 2, 4, 6, 8 or 10 of the that application. Accordingly, 7 of the '320 patent corresponds to claim 41 of the parent application.

On June 1, 1994 in the parent application the PTO required restriction between the group containing claim 29 and the group containing 41 on the grounds that they were patentably "separate and distinct". Therefore, in accordance with 35 U.S.C. § 121, the '320 patent including its claims cannot be cited against claims 48-55 of the subject application.

In light of the above, it is believed that the outstanding obviousness-type double patenting rejection should be withdrawn. Such action is respectfully requested.

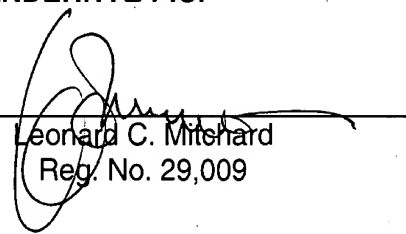
Allowance of the application is awaited.

Reid Von Borstel  
Appl. No. 09/494,242  
November 24, 2003

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Leonard C. Mitchard  
Reg. No. 29,009

LCM:lfm  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100